

### REMARKS

In the Office Action dated August 22, 2008, the Examiner: (1) vacated the Office Action dated July 18, 2008; (2) withdrew the rejection of claims under 35 U.S.C. § 102(a or e); and (3) rejected claims 1, 38-54, 57-66, 68 and 70-91 under 35 U.S.C. § 103(a) as being unpatentable over Tuschl, *et al.*, Elbashir *et al.* and Walton *et al.* Applicants had already responded to the Office Action dated July 18, 2008 before receiving the more recent Office Action; however, the Examiner had not received Applicants' response prior to issuing that new Office Action.

On September 9, 2008, the undersigned attorney of record spoke with the Examiner who confirmed that the substantive rejections were the same in the July and August Office Actions. In order to form a complete written record, Applicants hereby request in writing that in response to the August 22, 2008 Office Action, the Examiner consider Applicants' response filed on August 20, 2008.

Applicants submit that no fee is necessary with this response. However, if any fee is deemed necessary, Applicants authorize the Patent Office to charge the Deposit Account No. 11-0171 for any such sum.

Respectfully submitted,

/Scott D. Locke/  
Scott D. Locke, Esq.  
Registration No.: 44,877  
Attorney for Applicants

Kalow & Springut LLP  
Telephone No.: (212) 813-1600